

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CASEY E.,

Claimant,

vs.

WESTSIDE REGIONAL CENTER,

Service Agency.

OAH No. 2010110134

DECISION

This matter was heard by Erlinda G. Shrenger, Administrative Law Judge, Office of Administrative Hearings, State of California, on May 23, 2011, in Culver City.

Claimant was represented by his father Mehdi E. (Father).¹ Claimant was not present at the hearing.

Lisa Basiri, Fair Hearing Coordinator, represented the Westside Regional Center (WRC or Service Agency).

The documentary and testimonial evidence described below was received, and argument was heard. The record was closed and the matter was submitted for decision on May 23, 2011.

ISSUE

Whether the Service Agency should fund for claimant to receive independent living services of 15 hours per month.

¹ Claimant and his father are identified by first name and last initial, or by title, to protect their privacy.

EVIDENCE RELIED UPON

Documentary: Service Agency's exhibits 1-12; claimant's exhibit A.

Testimonial: Lisa Basiri; claimant's father.

FACTUAL FINDINGS

Claimant's Background

1. Claimant is a 35-year-old male who is a consumer of the Service Agency. He is diagnosed with moderate mental retardation, ADHD, obsessive compulsive disorder, seizure disorder, and anxiety disorder-not otherwise specified.

2. Claimant currently lives at home with his parents. Claimant is fully ambulatory. He is able to communicate verbally and in writing. Claimant can perform self-care and grooming tasks, but needs monitoring or assistance to complete the tasks thoroughly or correctly. Claimant can help with simple household chores, such as setting the table for dinner, wiping down counters, and loading dishes in the dishwasher. He can wash his own clothes but needs assistance with bleach and hot water. He can make his bed with assistance. Claimant needs constant supervision due to his lack of general safety awareness. He lacks the ability to protect himself or recognize dangerous situations. He does not understand the concept of a stranger. He is much too friendly and will talk to anyone while out in the community. He is unable to use public transportation without support from others.

3. Pursuant to claimant's individual program plan (IPP) dated May 12, 2010, the Service Agency has authorized funding for claimant to receive in-home respite of 28 hours per month, specialized supervision of 84 hours per month, and independent living services (ILS) of 15 hours per month, and for claimant to attend the Work Creation Program (an adult day program) five days per week. The Service Agency also provides claimant's round-trip transportation from home to the Work Creation Program five days per week. Claimant has been successful in the Work Creation Program. He enjoys working at the VA Hospital through this program and gets along well with his job coach and co-workers. The Work Creation Program also implements a behavior program for claimant that targets his specific problems, such as repeating questions, intruding in other's business, and inappropriate conversation.

4. The only service at issue in this fair hearing is ILS.

Claimant's ILS

5. Claimant has received ILS of 15 hours per month, funded by the Service Agency, from approximately February 2008 until November 30, 2010. Bernadette Bockis has been claimant's ILS provider from August 2008 until the services were terminated on November 30, 2010.

6. In 2008, claimant and his parents expressed interest in having him move out of the parents' home to live independently. The Service Agency authorized funding for claimant to receive ILS of 15 hours per month. During an informal meeting in 2009, claimant and his parents agreed that the ILS would be extended only through September 30, 2010, by which date they agreed that claimant would be ready to move to his own apartment.

7. According to claimant's IPP dated May 12, 2010, claimant continues to have "mixed emotions" about moving out of his parents' home. He has stated that he would like to continue living at home with his parents but also stated that he would like to have his own apartment. During the May 12, 2010, IPP meeting, claimant's parents were provided information for other living options for claimant, specifically, Home Ownership Made Easy, Inc. (HOME) and Independence Center. The May 12, 2010, IPP indicates the ILS funded by the Service Agency was to help claimant meet his goal to "explore other living options like supported living and/or group home" and "be open to exploring other living options." In the past, claimant was referred for residential placement but his parents felt the placement being offered was too far from their home; they preferred a placement in the Westside area.

8. In September 2010, claimant and his parents requested the Service Agency to continue funding claimant's 15 hours per month of ILS. Claimant was still living at his parents' home.

9. On October 1, 2010, the Service Agency notified claimant, in writing, of its decision to reauthorize funding for his ILS only through November 30, 2010. The Service Agency's decision is based on the 2009 informal agreement and its determination that claimant does not qualify for ILS because he is still living in his parents' home with no definite plan for moving out.

10. On October 27, 2010, Father filed a fair hearing request, on claimant's behalf, to appeal the Service Agency's decision.

WRC's Service Standard for ILS

11. As stated in its service standard for ILS, the Service Agency's policy is "to provide [ILS] to those adults who express the interest and desire to live in their own homes, and who have the potential to do so without jeopardizing their health and safety." The goal of ILS is "to enable adults to live independently in their own homes in the community."

12. WRC's service standard states that ILS "offer varying levels of instruction and support based on individual need." Independent Living Skills Training is one type of ILS which provides intensive instruction and practice in natural settings and "may be offered to individuals who have the desire to live independently, but need significant skills development in order to accomplish that goal." WRC "will provide funding for Independent Living Skills Training for an adult who lives in the parental family home . . . for a maximum of two years." The service standard further provides: "If the intent of the service is that the adult move to his or her separate home, Independent Living Skills Training will be provided for a maximum of one year while an adult is still living in the family home. . . . The service will be terminated and the needs of the adult re-evaluated if the adult does not move out of the parental family home after one year. An exception to this policy may be made if the needs of the individual are re-evaluated, and the goals are changed in the person's IPP to state that the intent of Independent Living Skills Training is to increase the level of independence while still living in the family home."

Parties' Contentions

13. The Service Agency contends that claimant does not qualify for ILS. He continues to reside in his parents' home at his and his parents' preference. There is no clear plan for moving or an identified move date and location. Claimant has been receiving ILS for three years. He has made gains and become more independent. However, his primary needs are still provided for by his parents. The parents manage his money, prepare most of his meals, purchase groceries, and maintain the household upkeep.

14. According to Ms. Basiri, once claimant has a definite plan for moving from his parents' home, the Service Agency will provide him ILS to prepare him for moving to his own place. WRC's service standard provides: "If, after Independent Living Skills Training has been terminated, the adult again chooses to move out of the family home or residential setting, and a definite moving date is established, [WRC] will provide funding for assistance to locate and move to a separate home."

15. Father testified at the hearing. He appreciates the services and support the Service Agency has provided, and is providing, to his son. There is no definite plan for claimant to move out of his parents' home. On May 19, 2011, Father submitted an application to HOME to place claimant on a waiting list for a place to live. Father was informed by HOME that claimant can expect to be on the waiting list for approximately two years. Father feels that if claimant can continue to receive ILS in the interim, he will be ready to move by the time he reaches the top of the HOME waiting list. According to Father, it is not clear whether claimant wants to move from his parents' home. One day he will indicate he wants to move, but the next day he will indicate the opposite.

16. According to Father, claimant has benefited from the ILS he has received, in that he has learned to ride the bus on his own and can access the community independently. However, Father feels he is not yet ready to move to his own home at this time. Claimant still needs help with money and socializing with same-aged peers. Claimant's parents have invited his co-workers to their home to provide opportunities for socialization and developing friendships.

LEGAL CONCLUSIONS

1. The Lanterman Developmental Disabilities Services Act (Lanterman Act) governs this case. (Welf. & Inst. Code, §§ 4500 et seq.)²

2. A regional center is required to secure the services and supports that meet the needs of the consumer, as determined in the consumer's IPP. (§ 4646, subd. (a)(1).) "Services and supports shall be flexible and individually tailored to the consumer and, where appropriate, his or her family." (§4648, subd. (a)(2).) A regional center must secure services that are effective in meeting the consumer's IPP goals and are cost-effective, and to the extent possible, reflect the preferences of the consumer and his or her family. (§§ 4512, subd. (b), 4646.) A regional center must ensure "[c]onformance with the regional center's purchase of service policies" when purchasing services and supports for a consumer. (§ 4646.4, subd. (a)(1).)

3. In this case, the Service Agency is not required to provide claimant with 15 hours per month of ILS. Presently, claimant has no clear intention or definite plan for moving from his parents' home. As such, ILS is not a service that is necessary or appropriate to meeting his needs, as identified in his IPP, at this time. Further, WRC's service standard sets a two-year time limit for ILS. The Service Agency has funded ILS for claimant for approximately three years. Claimant's appeal must be denied.

² All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

ORDER

Claimant's appeal is denied.

DATED: June 7, 2011

ERLINDA G. SHRENGER
Administrative Law Judge
Office of Administrative Hearings

NOTICE:

This is the final administrative decision; both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.